

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KENNETH J. MARINO,  
Plaintiff,

V.

CROSS COUNTRY BANK and

APPLIED CARD SYSTEMS, INC.,

Defendants.

## CIVIL ACTION

**NO. 07-**

## **NOTICE OF REMOVAL**

**To the Judges of the United States District Court for the Eastern District of Pennsylvania:**

This Notice of Removal on behalf of defendants, CROSS COUNTRY BANK and APPLIED CARD SYSTEMS, INC., respectfully alleges the following:

1. On or about December 1, 2006, plaintiff commenced an action in the Court of Common Pleas of Delaware County captioned *Kenneth J. Marino v. Cross Country Bank and Applied Card Systems, Inc.*, Docket No. 06-16898, alleging a claim against the defendants for personal injuries arising from an alleged wrongful use of civil proceedings also known as a Dragonetti claim. allegedly occurring on or about January 5, 2004. A copy of plaintiff's Complaint filed on or about December 1, 2006, is attached hereto as Exhibit "A."
2. It is defendants' position that plaintiff's initial attempts at service were ineffective. On April 5, 2007, counsel for defendants executed and filed an Acceptance of Service, a copy of which is attached hereto as Exhibit "B."
3. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b).

4. At all times relevant, Cross Country Bank is a Delaware corporation with its principal place of business located in Wilmington, Delaware.

5. At all times relevant, Applied Card Systems, Inc., is a Delaware Corporation with its principal place of business located in Wilmington, Delaware.

6. Plaintiff Kenneth J. Marino is a resident of the State of North Carolina, residing at 1005 Baltusrol Lane, Waxhaw, North Carolina, 28173. (Exhibit A, ¶ 1).

7. While state law and rules of procedure do not require an amount of monetary relief to be set forth in a Complaint, plaintiff prayed for relief in an amount in excess of \$75,000 (Exhibit A). The amount in controversy in this action is no doubt significant, as the case involves an alleged wrongful use of process and alleges that Defendants acted “wantonly and grossly” thereby justifying the award of punitive damages. Exhibit A ¶ 21.

8. Plaintiff also claims that Defendants initiated the alleged improper action “for the improper purpose of preventing Plaintiff from testifying to certain Attorneys General” (Exhibit A ¶ 18).

9. Therefore, the amount in controversy is in excess of \$75,000.00.

10. In light of the foregoing, the federal jurisdiction has been established pursuant to 28 U.S.C. § 1332, satisfying both diversity and amount in controversy requirements.

11. Written notice of the filing of the within Notice of Removal has been served by defendants’ counsel, and a copy of this Notice of Removal has been forwarded by mail to the Court of Common Pleas of Delaware County.

**WHEREFORE,** defendants, CROSS COUNTRY BANK and APPLIED CARD SYSTEMS, INC., pray that the matter be removed from the Court of Common Pleas of Delaware County to this Honorable Court.

Dated: April 4, 2007

Respectfully submitted,

**LAMB McERLANE PC**

By: \_\_\_\_\_  
Guy A. Donatelli, Esquire  
Validation No.: GAD2504  
Attorney I.D. No. 44205  
24 E. Market Street – P.O. Box 565  
West Chester, PA 19381-0565  
(610) 430-8000

Attorneys for Defendants Cross Country  
Bank and Applied Card Systems, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that in this case complete copies of all papers contained in the foregoing Notice of Removal have been served upon the following persons, by the following means and on the date(s) stated:

Name:	Means of Service:	Date of Service:
Kevin W. Gibson, Esquire Gibson & Perkins, P.C. Suite 105 200 East State Street Media, PA 19063	First Class Mail	April 5, 2007

**LAMB McERLANE PC**

By: \_\_\_\_\_

Guy A. Donatelli, Esquire  
Validation No.: GAD2504  
Attorney I.D. No. 44205  
24 E. Market Street – P.O. Box 565  
West Chester, PA 19381-0565  
(610) 430-8000

Attorneys for Defendants Cross Country  
Bank and Applied Card Systems, Inc.

